



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,671	06/19/2002	Gary John Mackay Jenkins	A1-1378	6556
7590 Hartman & Hartman 552 East 700 North Valparaiso, IN 46383			EXAMINER BUI, LUAN KIM	
			ART UNIT 3728	PAPER NUMBER
DATE MAILED: 03/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/890,671

Applicant(s)

JENKINS, GARY JOHN MACKAY

Examiner

Luan K Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-14 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Information Disclosure Statement***

1. The information disclosure statement filed 6/19/2002 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-6, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Andersson (3,834,606). Andersson discloses a container having a recess for containing matter comprising a wall structure (3) formed of a porous material such as absorbing material (see abstract) and having inner and outer surfaces, a base wall (4), a continuous side wall (5) upstanding therefrom, and a peripheral rim (6) extending outwardly of the side wall, a fluid

Art Unit: 3728

barrier film layer (1, 2) at each of the inner and outer surfaces of the wall structure with each of the fluid barrier film layers formed from plastic material which is considered equivalent to a fluid-impermeable material, means for enabling fluid flow such as perforation (7) from the recess of the container into the interior space through the fluid barrier film layer at the inner surface of the wall structure and means for sealing (9) the interior space from a remaining portion of the wall structure in a fluid tight manner between the fluid barrier film layers and across the thickness of the wall structure (Figures 1-2). As to claim 3, the interior space of the container of Andersson is limited to the base wall of the wall structure. As to claim 6, for this rejection only, the sealing means (9) is in the peripheral rim (10) of the wall structure.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson (3,834,606) in view of Grone (6,216,855). Andersson discloses the container as above having all the limitations of the claim except for the porous material being made has an open cell structure. Grone shows a container having a recess for containing matter comprising a wall structure formed from a porous material and the material has an open cell structure (see abstract). It would have been obvious to one having ordinary skill in the art in view of Grone to modify the

Art Unit: 3728

wall structure of Andersson so the porous material includes an open cell structure for better absorbing the liquid and to provide a stiff container.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson (3,834,606) in view of The German Patent No. 197 25 949 (hereinafter DE'949). Andersson discloses the container as above having all the limitations of the claim including the periphery rim (6). Andersson fails to show the sealing means being in the peripheral rim of the wall structure. DE'949 shows a container (100) having a periphery rim and a sealing means (100c) is in the peripheral rim of a wall structure. It would have been obvious to one having ordinary skill in the art in view of DE'949 to modify the container of Andersson so the sealing means is in the peripheral rim of the wall structure to allow the absorbing material to absorb more liquid.

7. Claims 7, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 6 above, and further in view of Pearlstein (5,709,897) or Lemaire (6,223,894). To the extent that the container of Andersson further fails to show an impervious gas barrier film being sealed to the peripheral rim of the wall structure, Pearlstein suggests a container (10) having an impervious gas barrier film (14) sealed to a peripheral rim of a wall structure of the container. Lemaire teaches a container (10) comprising an impervious gas barrier film (40) sealed to a peripheral rim (26) of a wall structure of the container. It would have been obvious to one having ordinary skill in the art in view of Pearlstein or Lemaire to modify the container of Andersson so it includes an impervious gas barrier film sealed to a

Art Unit: 3728

peripheral rim of a wall structure to define a gas tight closure for the recess of the container for better protecting the contents disposed within the container.

*Allowable Subject Matter*

8. Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Marilyn Watts at (571) 272-4398.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
March 10, 2005



Luan K. Bui  
Primary Examiner